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NOTICE OF ALLOWANCE AND FEE(S) DUE

25889

7590

09/11/2008

COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

EXAMINER

CADUJAN, ERICA E

ART UNIT

PAPER NUMBER

3726

DATE MAILED: 09/11/2008

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,082	10/17/2005	Gerhard Mogck	MOGCK, G. ET AL 1	3247

TITLE OF INVENTION: DEVICE FOR ASSEMBLING, TUNING, AND TESTING MOTOR VEHICLES

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1440	\$300	\$0	\$1740	12/11/2008

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail** **Mail Stop ISSUE FEE**
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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

25889 7590 09/11/2008
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1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

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I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

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nonprovisional	NO	\$1440	\$300	\$0	\$1740	12/11/2008

EXAMINER	ART UNIT	CLASS-SUBCLASS
CADUGAN, ERICAE	3726	029-564100

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB-122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB-47; Rev 03-02 or more recent) attached. Use of a **Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 _____
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 _____
3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____
Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576				
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DATE MAILED: 09/11/2008

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 0 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 0 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability

Application No.

10/538,082

Examiner

Erica E. Cadugan

Applicant(s)

MOGCK ET AL.

Art Unit

3726

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to RCE filed 2/5/08.
2. ☒ The allowed claim(s) is/are 5-8,10 and 15.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: ____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date ____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date ____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☒ Other See Continuation Sheet

Continuation of Attachment(s) 9. Other: illustration of drawing changes from Exr. Amdt..

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Frederick Dorchak on September 5, 2008.

The application has been amended as follows:

On page 6, the paragraph added in the amendment of 2/5/2008 prior to the last full paragraph ("FIGS. 5c and 5d show...tires respectively.") has been deleted.

On page 6, the following paragraph has been added between the line beginning "Fig. 5b..." and the line beginning "Fig. 6...":

FIGS. 5c and 5d show views, similar to FIGS. 5a-5b, of a roller, braking and ABS test rig showing motor-driven elements acting on the wheel rims and the tires respectively.

On page 6, the following new paragraph has been added after the paragraph beginning "Fig. 6...":

Fig. 7 shows a schematic view of an assembly hall, with a modular conveying mechanism of the device according to the present invention for overhead conveyance out of the assembly hall of a motor vehicle following assembly also schematically shown.

On pages 6-7, the paragraph bridging pages 6-7 has been amended as follows:

As is evident from FIG. 1a and 1b, the individual components (modular workstations) of assembly units 20 have load-bearing members in the form of longitudinal girders 1 and

transverse girders 2, on which the conveying mechanisms 3 for the vehicle to be assembled, the supply lines -- e.g. for electricity, data transmission, compressed air, etc. -- and other equipment such as ropes for the information signs and rails for trolleys and pneumatic devices are mounted. At the coupling points between two individual components, quick-release connectors are provided that ensure the power supply from individual component to individual component. In this way, one of the individual components can be connected up to the supply lines in the hall and power then supplied to the other individual components via the quick-release connections, without the time-consuming necessity of connecting up each individual component separately. Of course, it is also possible to connect up each of the individual components separately to the supply lines.

On page 7, the paragraph beginning "Fig. 4 shows..." has been amended as follows:

Fig. 4 shows ~~an assembly hall 22 containing~~ a device according to the invention in the form of a sequence of individual components for unit assembly, the individual components being designated as stations 1 to 19.

Drawings

2. Firstly, it is noted that of the drawings filed 2/5/2008, Figures 1b and 4 are not approved and Figures 2b, 3b, 3c, 5a, 5b, 5c, and 5d are approved.
3. Specifically regarding Figure 1b, the specification as originally filed does not teach that each of the elements labeled as 20 in the Figure 1b of 2/5/08 are "assembly units", noting that the specification as originally filed also teaches the use of testing and rework units, and thus, for at least this reasoning, it is not inherent that each of the units labeled as 20 in amended Figure 1b are "assembly units". Additionally, re Figure 4 as filed on 2/5/08, the specification as originally

filed does not support such a showing of an "assembly hall". For example, it is noted that the specification as originally filed does not teach that the "assembly hall" is located as shown or includes the particular stations shown.

It is noted that Applicant's remarks (on pages 14-18 thereof, for example) include a number of assertions about the specifics of the production process and what details are shown in Figures 4 and 1b. However, it is noted that, in general, the specification (neither in the written portion thereof nor in the drawings) as originally filed does not provide the level of detail about the process argued by Applicant, i.e., the specification as originally filed does not explicitly teach such, nor is inherent from the specification as originally filed that such is how the process must be. For example, note that Figure 4 as originally filed merely shows a plurality of stations in a particular arrangement, but does not teach the specifics of what is occurring at each station, beyond stating that "Fig. 4 shows a device according to the invention in the form of a sequence of individual components for unit assembly, the individual components being designated as stations 1 to 19". Thus, the specification does not explicitly teach, nor is it inherent, that the stations (or any particular station) of Figure 4 are performing the particular assembly operations or test operations argued by Applicant.

4. The following changes to the drawings have been approved by the examiner and agreed upon by applicant: To original Figure 1b, the element number 3 has been added with a line drawn from the reference character to the conveying mechanism for overhead conveyance of a motor vehicle. Additionally, new Figure 7 has been added, which shows a schematic view of an assembly hall, with a modular conveying mechanism of the device according to the present

invention for overhead conveyance out of the assembly hall of a motor vehicle following assembly also schematically shown.

In order to avoid abandonment of the application, applicant must make these above agreed upon drawing changes.

5. It is noted that the objection to the drawings set forth in the final rejection mailed August 6, 2007, for failing to show the “plurality of assembly units” set forth in claim 15 has been withdrawn, noting that page 7 of the specification as originally filed teaches that “Fig. 4 shows a device according to the invention in the form of a sequence of individual components for unit assembly, the individual components being designated as stations 1 to 19”.

6. The following is an examiner’s statement of reasons for allowance: in the final rejection mailed August 6, 2007, it was indicated that claim 15 would be allowable if rewritten to overcome the rejections under 35 USC 112 set forth in that Office action, which claim 15 is substantially similar to the claim 11 that was indicated as being allowable in the Office action mailed November 15, 2006. The indication of allowability of such a claim has not changed.

Specifically, EP 1059222 (EP ‘222) was described in detail in at least the Office Action mailed August 6, 2007. Suffice it to say, EP ‘222 does not teach that the plurality of conveying mechanisms comprises any “conveying mechanism for overhead conveyance of a motor vehicle following assembly out of an assembly hall” at all, much less such a conveying mechanism for overhead conveyance of a motor vehicle following assembly out of an assembly hall wherein the conveying mechanism comprises an “individual, transportable, modular, interconnectable” component that is “installable on a flat surface without using a pit” as set forth in independent claim 15.

Additionally, there is no combinable teaching in the prior art of record that would reasonably and absent impermissible hindsight motivate one having ordinary skill in the art to so modify the teachings of EP '122, i.e., to provide any module for overhead conveyance that is structured and arranged so as to be capable of performing the “overhead conveyance of a motor vehicle following assembly out of an assembly hall” as set forth in independent claim 15, and thus, for at least the foregoing reasoning, EP '122 does not render obvious the present invention as set forth in independent claim 15. Note that the mere provision of an overhead conveyor of some type is not the provision of such being structured and arranged so as to be capable of performing the “overhead conveyance of a motor vehicle following assembly out of an assembly hall”. Also note that Applicant has stated the criticality of such a feature in at least the paragraph spanning pages 5-6 of the specification, which teaches that “[T]he overhead conveyance means for transporting the motor vehicles out of the assembly hall has the advantage that subsequent to final assembly, the motor vehicles can be transported, while still suspended, out of the assembly hall to a parking space” and “[T]his measure prevents emissions caused by starting up the motor vehicles and driving them out of the assembly hall”.

The aforescribed prior art being representative of the closest prior art of record, for at least the foregoing reasoning, the prior art of record neither anticipates nor renders obvious the present invention as set forth in independent claim 15.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erica E. Cadugan whose telephone number is (571) 272-4474. The examiner can normally be reached on Monday-Thursday, 5:30 a.m. to 4:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David P. Bryant can be reached on (571) 272-4526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Erica E Cadugan/
Primary Examiner
Art Unit 3726

eec
September 10, 2008